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In re Application of
KRISKO et al.
Serial No.: 09/868,543
PCT No.: PCT/US99/17876
Int. Filing Date: 06 August 1999
Priority Date: 21 December 1998
Attorney's Docket No.: 440462031131
For: LOW-EMISSIVITY, SOIL-RESISTANT COATING
FOR GLASS SURFACES

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on applicant's 'Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137 (b)' filed in the United States Patent and Trademark Office on 15 August 2001, in effect, requesting that the Notification of Abandonment mailed 06 August 2001 be vacated.

BACKGROUND

On 06 August 1999, applicant filed international application No. PCT/US99/17876 which claimed priority of an earlier U.S. application filed 21 December 1998. A copy of the international application had been communicated to the United States Patent and Trademark Office from the International Bureau on 29 June 2000.

On 21 July 2000, a Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 21 June 2001.

On 19 June 2001, applicant filed a transmittal letter requesting entry into the national stage in the United States of America under 35 U.S.C. §371 without the basic national fee or authorization to charge the fee to a deposit account.

On 12 July 2001, applicant submitted fees in the amount of \$1070.00 to be used in accord with the Fee Calculation Sheet filed on 19 June 2001 in this application.

On 06 August 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that applicant failed to provide the full U.S. basic national fee by the thirty month deadline and the application was abandoned.

On 15 August 2001, applicant filed a petition to revive with the petition fee of \$1240, in effect, requesting the withdrawal of the holding of abandonment.

DISCUSSION

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of \$860 has been paid and that the required petition fee of \$1240 has also been paid. The requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

CONCLUSION

The petition to revive under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing including issuance of the Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the oath or declaration and the surcharge for filing the oath or declaration after the thirty month period is required.



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